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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/748,973      | 12/29/2003  | Charles F. Kelty     | 3001.002            | 8829             |

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| EXAMINER |
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PRINCE, FRED G

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| ART UNIT | PAPER NUMBER |
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1724

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/748,973

Applicant(s)

KELTY, CHARLES F.

Examiner

Fred Prince

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 8 and 10-18 is/are rejected.
- 7) ☐ Claim(s) 5, 6 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1203.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102/103*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 10, 12, and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kraeft (DE 29816019).

Kraeft teaches a skimmer and filter unit comprising a tank portion (12), a skimmer chamber (31) within the tank, an ultraviolet light chamber (50) within the tank portion, a pump chamber within the tank portion (13; Fig. 2), and a filter chamber (21, 23, 24).

It is submitted that the preamble recitation that the unit is for use with a body of water, it is submitted that the recitation is one of intended use which fails to add structure to the claim. If it is applicant's position that the limitation adds structure, it is submitted that the unit of Kraeft is capable of use with water as it is known that coolants containing water are capable of use with machine tools.

Art Unit: 1724

4. Claims 4, 7-8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraeft.

Kraeft is described above. Kraeft does not disclose a cylindrical housing with a neck including a weir faceplate and lid mating to the tank portion.

It is submitted that it is conventional in the art to form a skimmer and filter unit such that the unit includes a cylindrical housing with a neck including a weir faceplate and lid mating to the tank portion (see, for example, US Pat No 4,454,035 to Stefan). Accordingly, it is submitted that it would have well within the purview of the skilled artisan to have modified the invention of Kraeft to have a cylindrical housing with a neck including a weir faceplate and lid mating to the tank portion as a matter of choice of engineering design.

Regarding the lid reducing deformation of the tank by an environment, it is submitted that the recitation is one of intended use which fails to add structure to the lid. Accordingly, the recitation fails to patentably distinguish the instant invention over the prior art.

Per claim 8, it is submitted that making the exterior having a coarse surface is a matter of design, insufficient to patentably distinguish the instant invention over the prior art.

Per claim 11, it is submitted that it is conventional in the art to provide a bypass valve between a skimmer chamber and a pump chamber in order to, for example, control water flow through the skimmer (see, for example, US Pat No 4,454,035 to Stefan). Accordingly, it is submitted that it would have been readily obvious for the

Art Unit: 1724

skilled artisan to have modified the invention of Kraeft such that it includes a bypass valve between a skimmer chamber and a pump chamber in order to, for example, control water flow through the skimmer.

5. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefan in view of Sanders.

Stefan, directed toward treating a body of water, discloses receiving water through a weir opening (12), skimming the water, and directing the water downward (18), directing the water through a filter chamber (40), sensing water level in a pump chamber and operating a bypass valve (col. 7, lines 65-68; col. 8, lines 1-2), and directing water to a pump chamber (19). Stefan does not disclose subjecting the water to ultraviolet light.

Sanders, also directed toward treating a body of water, discloses treating water with ultraviolet radiation (40) in order to destroy unwanted microorganisms in the water (col. 3, lines 26-28).

In any case, it would have been readily obvious for the skilled artisan to have modified the method of Stefan such that it includes treating water with ultraviolet radiation in order to destroy unwanted microorganisms in the water, as suggested by Sanders.

***Allowable Subject Matter***

6. Claims 5-6 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

Per claims 5-6, while claim 4 is not patentable for the reasons provided above, in the examiner's opinion, the prior art fails to teach or render obvious instant inventions. The instant inventions provide the benefit of flexible mating slots and a movable weir door capable of a fixed position, respectively.

Per claim 9, while claim 1 is not patentable for the reasons provided above, in the examiner's opinion, the prior art fails to teach or render obvious instant invention. The instant invention provides secure means for attaching the ultraviolet light to the chamber.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-

Art Unit: 1724

1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt.  
Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Fred Prince  
Primary Examiner  
Art Unit 1724

fgp  
4/1/05